

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MULTI-VET LTD.,

Plaintiff,

-against-

PREMIER PET PRODUCTS, INC.,

Defendant.

08 Civ. 03251 (LMM)

**PLAINTIFF'S REPLY TO THE
DEFENDANT'S COUNTERCLAIMS**

The plaintiff, Multi-Vet Ltd. ("Multi-Vet"), by its attorneys Abelman, Frayne & Schwab, as and for its reply to the Amended Answer and Counterclaims of the defendant, Premier Pet Products, Inc. ("Premier"), states as follows:

RESPONSES TO PREMIER'S COUNTERCLAIMS

1. In response to paragraph 1 of Premier's counterclaims, Multi-Vet states that it has insufficient knowledge or information to form a belief as to the truth or falsity of the allegations therein, and on that basis denies them.

2. Multi-Vet admits the allegations in paragraph 2 of Premier's counterclaims.

3. In response to paragraph 3 of Premier's counterclaims, Multi-Vet admits that the Court has jurisdiction over the subject matter of this action.

4. In response to paragraph 4 of Premier's counterclaims, Multi-Vet admits that the Court has jurisdiction over it.

5. In response to paragraph 5 of Premier's counterclaims, Multi-Vet admits that venue is appropriate in this jurisdiction.

6. Multi-Vet admits the allegations in paragraph 6 of Premier's counterclaims.

7. Multi-Vet denies the allegations in paragraphs 7 through 9 of Premier's counterclaims.

8. In response to the allegations in paragraph 10 of Premier's counterclaims, Multi-Vet admits that it filed and obtained U.S. Trademark Registration No. 2,762,487, but denies any remaining allegations therein.

9. Multi-Vet admits the allegations in paragraph 11 of Premier's counterclaims.

10. Multi-Vet denies the allegations in paragraph 12 of Premier's counterclaims.

11. In response to the allegations in paragraph 13 of Premier's counterclaims, Multi-Vet admits that Exhibits A and B to Premier's Amended Answer and Counterclaims appear to be web pages that were accessed on the website «healthypets.com» on May 23rd, 2008, but denies any remaining allegations therein.

ANSWER TO PREMIER'S FIRST COUNTERCLAIM

12. In response to paragraph 14 of Premier's counterclaims, Multi-Vet repeats and incorporates by reference its responses to paragraphs 1 through 13 of Premier's counterclaims as if fully set forth herein.

13. Multi-Vet denies the allegations in paragraphs 15 through 17 of Premier's counterclaims.

ANSWER TO PREMIER'S SECOND COUNTERCLAIM

14. In response to paragraph 18 of Premier's counterclaims, Multi-Vet repeats and incorporates by reference its responses to paragraphs 1 through 17 of Premier's counterclaims as if fully set forth herein.

15. Multi-Vet denies the allegations in paragraphs 19 through 21 of Premier's counterclaims.

ANSWER TO PREMIER'S THIRD COUNTERCLAIM

16. In response to paragraph 22 of Premier's counterclaims, Multi-Vet repeats and incorporates by reference its responses to paragraphs 1 through 21 of Premier's counterclaims as if fully set forth herein.

17. Multi-Vet denies the allegations in paragraphs 23 through 25 of Premier's counterclaims.

**AFFIRMATIVE DEFENSES TO
PREMIER'S COUNTER CLAIMS**

18. Premier's counterclaims fail to state a claim upon which relief can be granted.

19. Premier's counterclaims are barred in whole or part under the Doctrines of Waiver, Estoppel, Laches and Unclean Hands.

20. The trademarks asserted by Premier are not owned by it.

21. Premier has not suffered any damage as a result of Multi-Vet's conduct, and it would be unjustly enriched if allowed to recover all or any part of the damages or remedies it seeks.

WHEREFORE, Multi-Vet asks:

22. that Premier's counterclaims be dismissed with prejudice,

23. that Multi-Vet be awarded its attorneys' fees and costs in defending against Premier's counterclaims; and

24. for such other and further relief as the Court deems just.

Dated: July 1, 2008
New York, NY

ABELMAN FRAYNE & SCHWAB

/s/
Lawrence E. Abelman (LA 6486)
Michael Aschen (MA 6336)
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Counsel for the Plaintiff

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the Foregoing Plaintiff's Reply to the Defendant's Counterclaims was this 1st day of July, 2008, filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/
Michael Aschen (MA 6336)